

DATED 31st DAY OF MARCH 2020

(1) ENVIRONMENT AGENCY

AND

(2) KEEP BRITAIN TIDY

Collaborative Agreement relating to Natural Course LIFE 14 IPE/UK/000027 RBMP
NWRBD-UK - Macro Plastics North West

Project Ref No:

Procurement Ref No: 27214 (ecm56986)

Commencement Date: 20 December 2019

Project Period: 60 Months

[V0.10 31/03/20]

Document: standard collaborative agreement

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THIS AGREEMENT is made on the 31st day of March 2020

BETWEEN:

- (1) **ENVIRONMENT AGENCY**, whose principal office is at Horizon House, Deanery Road, Bristol BS1 5AH ("the Agency")

AND

- (2) **KEEP BRITAIN TIDY** whose principal office is at Elizabeth House, Wigan, WN3 4EX ("PARTY A")

("the Parties")

WHEREAS:

- A. The Parties wish to undertake the Project in order to deliver a targeted public campaign on the impacts of macro plastics on the environment and the design of, hosting and maintenance of a public access web form to support the campaign and have agreed to collaborate in jointly funding and managing the Project.
- B. The objectives of the Project are to:
- (a) Design and deliver a targeted public campaign to communicate the potential impacts of Macro Plastics on rivers and the Irish Sea and the species within them.
 - (b) Design and host a web based public access web resource to provide materials and resources to avoid, reuse, reduce and recycle plastics. The aims of the web resource will educate, promote and sign post users to develop a behavioural change.
 - (c) Update and maintain the information held on the web resource for a minimum period of 5 (five) years after go live date.
 - (d) Facilitate the archive process once the format and location has been agreed.
- C. The aim of this Collaborative Agreement is to:
- (a) agree the financial and non-financial contributions of each Party;
 - (b) foster mutual trust and co-operation between the Parties;
 - (c) define the roles and responsibilities of the Parties;
 - (d) agree the review processes to ensure the Project objectives are being met; and
 - (e) agree the process by which any dispute will be settled.

NOW THE PARTIES AGREE AS FOLLOWS:

1. THE AGREEMENT & DEFINITIONS

1.1 In this Agreement, unless the context otherwise requires, the following words and expressions shall have the following meanings:

“Agreement”	means this collaborative agreement as further defined in Clause 1.4
"CEDR"	means the Centre for Effective Dispute Resolution of The International Dispute Resolution Centre, 70 Fleet Street, London EC4Y 1EU
“Background Rights”	means all Intellectual Property Rights owned or used by a Party, whether under licence or otherwise, which it introduces for the purpose of carrying out the Project or any activities under the terms of this Agreement and as detailed in Appendix 4 or notified by the introducing Party from time to time in accordance with this Agreement.
“Commencement Date”	means the date on which this Agreement commences which shall be the date at the head of this Agreement
“Completion Date”	means the fifth anniversary of the Go Live Date or such later date as may be agreed in writing between the Parties, being the date upon which the rights and obligations of all the Parties in relation to delivering the Project under this Agreement shall be met.
“Confidential Information”	has the meaning set out in Clause 8
“Contributions”	means the Parties’ respective contributions to the Project including the Financial Contributions and the Non-Financial Contributions
“Data Protection Legislation”	has the meaning given in paragraph 2 of Appendix 3
“Deliverables”	means those Results of the Project listed in the Specification (together with any agreed addition to or variation of the same), which are to be delivered up during the Project as set out in Clause 3.6

“Field”	means fields of study or activity
“Financial Contributions”	means the financial contributions to be made by the Parties, as set out in Appendix 2
“Force Majeure Event”	means an event beyond the reasonable control of a Party that renders the performance of the Agreement impossible whether temporarily or otherwise which for the avoidance of doubt may include prohibitive government regulation, flood, lightening or other extreme weather conditions, fire, explosion, malicious damage, industrial actions or lockouts, terrorism, war, civil commotion, military operations, riot, national emergency, the act or omission of any third party not being its agent or sub-contractor, any change in the law or in the interpretation of the law by the courts
“Foreground Rights”	means all Intellectual Property Rights in the Results
“Go Live Date”	means the date on which the web forum described in the Specification has been established and made operational and available to the public to the satisfaction of the Agency as confirmed by written notice from the Agency to Party A (such notice not to be unreasonably withheld or delayed)
“Intellectual Property Rights”, “IPR”	means without limitation all intellectual property rights including patents, business service and trade marks and names, designs, registered designs and design rights whether or not registered or capable of registration and the right to apply for and any applications for any of the foregoing, copyrights, database rights, domain names, together with the rights in inventions, methods, processes, drawings, documents, methodologies, utility models semi-conductor chip topography, software, databases, know-how, trade or business secrets and other industrial property, and in each case whether protectable or not and, if protectable, whether an application has been made for protection or not, and all similar industrial, commercial, monopoly or other similar right

	or asset capable of protection whether present or future, vested or contingent, and wherever protected
"Interim Results"	means all Results produced or created part way through the Project and may be incomplete or partial at their time of creation
"Key Personnel"	means the key personnel as defined in Clause 5.5 for Lead Partner and listed in the Specification, as may be varied with the written approval of the other Parties
"Lead Partner"	means the Party who shall take the lead in managing and delivering the Project as set out in Clause 4
"Mediator"	means a neutral third party appointed pursuant to Clause 14.5 to assist in the resolution of disputes
"Non-Financial Contributions"	means the Parties contributions-in-kind to the Project made without charge and including but not limited to contributions of staff time, resources, facilities, accommodation and equipment together with access to such of its Background Rights as are reasonably required for the Project where the same are contributed to the Project without charge
"Parties"	means the parties to this Agreement listed
"Personal Data"	has the meaning given in paragraph 2 of Appendix 3
"Project"	means the project "Natural Course LIFE 14 IPE/UK/000027 RBMP NWRBD-UK - Macro Plastics North West as set out in the Specification
"Project Activity"	the main Project activity to be carried out by the Working Party, as detailed in the Specification and Clause 3.6
"Project Manager"	means the person who shall be responsible for the day to day management and supervision of the Project as set out in Clause 5.1

Project Executive	means the person who shall be responsible for the overall governance of the project as nominated by the Agency from time to time
“Project Period”	means the duration of the Project as set out in Clause 2.1
"Property"	means property including but not limited to IPR used in connection with this Agreement
"Representative"	means a Party's representative as further set out in Clause 5 which shall include the Project Manager
“Results”	means all things produced, arising from and developed or created by on behalf of one or the other of the Parties in carrying out the Project or any other activities under the terms of this Agreement, including but not limited to papers, publications, maps, plans, sketches, drawings, diagrams, organograms, flowcharts, worksheets, presentations, videos, photographs, tapes, CDs, DVDs, datasets, databases, statistical data, experimental data, field data, analysis of results, published and unpublished results and reports, inventions, designs, know-how, computer hardware and software, computer code, computer programs, training manuals and other material, user documentation, progress reports and audit reports, and any other records documentation, data and information whatsoever (and in whatever media)
“Specification”	means the Project specification set out in Appendix 1 and the Project Timetable dated 22 November 2019
“Staff”	means employees, contractors, consultants, students and agents of a Party who are engaged or provided by the Party for the carrying out of its obligations in connection with this Agreement, and each of them
“the Union”	European Union represented by the Executive Agency/Commission for Small and Medium Sized Enterprises and the Contracting Authority of the EU “Life” Grant Agreement, under which the Agency is a beneficiary party.

"VAT"	means Value Added Tax
"Working Party"	means the Party or Parties (and if more than one each and all of them) carrying out the Project Activity as identified in the Specification [NB: This may be the Lead Partner]

- 1.2 In this Agreement, unless otherwise expressly provided or unless the context otherwise requires:
- (a) reference to any statute, statutory provision or statutory instrument includes that statute, statutory provision or statutory instrument as from time to time amended, extended, consolidated or re-enacted and all statutory instruments or orders made under or pursuant to it;
 - (b) words importing a gender include all genders, words importing the singular include the plural and vice versa;
 - (c) the words "including" or "includes" or any similar phrases shall be construed without limitation to the generality of the preceding words;
 - (d) reference to any person includes a legal entity; and
 - (e) all undefined words and expressions are to be given their normal English meaning.
- 1.3 The headings in this Agreement are for ease of reference only, and shall not affect its construction and reference to any 'Clause', 'Schedule' or 'Appendix' shall be references to clauses, schedules or appendices of this Agreement unless expressly stated to the contrary.

AGREEMENT

- 1.4 This Agreement contains the whole agreement between the Parties in respect of its subject matter and supersedes all previous communications, representations and arrangements, whether written or oral. This Agreement consists of the following documents:
- (a) these terms and conditions;
 - (b) Appendix 1;
 - (c) Appendix 2;
 - (d) Appendix 3;
 - (e) Appendix 4;
 - (f) any other documentation annexed hereto; and
 - (g) any variations made by the Parties in accordance with Clause 23.

In the case of ambiguity or conflict between any of the documents set out above, the documents will take precedence in the order listed (subject to clause 3.12 in respect of compliance with Data Protection Legislation).

RELATIONSHIP BETWEEN THE PARTIES

- 1.5 Nothing in this Agreement shall prejudice, conflict with or affect the exercise by the Agency of its statutory functions, powers, rights, duties, responsibilities or obligations arising or imposed under the Environment Act 1995 or any other legislative provision enactment, bye-law or regulation whatsoever, nor shall it fetter the exercise of any discretion the Agency may have.
- 1.6 Nothing in this Agreement shall operate as a statutory licence, waiver, consent or approval from the Agency.
- 1.7 The Parties shall be independent contractors for all purposes connected with this Agreement.
- 1.8 Nothing in this Agreement shall create a partnership or joint venture between the Parties, constitute one Party as the agent of another nor deem the Staff of one Party to be those of another. No Party shall have any authority to enter into any contract, warranty or representation on behalf of another nor shall any Party incur liabilities that bind or have the effect of binding another Party and in the absence of express agreement to the contrary no Party shall be bound by the acts or conduct of another.
- 1.9 No Party or its Staff shall represent themselves as having the authority to interpret the policies and procedures of any other Party.

2. DURATION

- 2.1 This Agreement shall commence on the Commencement Date and unless earlier terminated in accordance with this Agreement shall continue until the Completion Date.

3. THE PARTIES' OBLIGATIONS

- 3.1 The Parties agree:
- (a) the programme for the administration, scope and delivery of the Project as set out in the Specification; and
 - (b) the Parties respective Contributions and their responsibilities in relation to the Project as set out in the Specification and otherwise in this Agreement.
- 3.2 The Parties shall each:
- (a) provide their Contributions and fulfil their responsibilities as set out in the Specification and otherwise in this Agreement;
 - (b) co-operate and use all reasonable endeavours to ensure the success of the Project;
 - (c) act in good faith and in the spirit of co-operation in carrying out the Project;
 - (d) ensure that all communications are constructive, comprehensive, timely and open;

- (e) provide information promptly to one another relating to their involvement in the Project including all Results and interim Results;
 - (f) promptly raise and use reasonable endeavours to resolve any issues, difficulties, problems or opportunities that arise; and
 - (g) aim to reach agreement in discussions for the good of the Project rather than for individual Party gain.
- 3.3 In carrying out its obligations under this Agreement the Parties shall each:
- (a) use all reasonable care, attention and diligence; and
 - (b) perform their obligations in accordance with this Agreement and in a timely manner.
- 3.4 The Lead Partner shall each inform the Agency Project Manager promptly of any event that is likely to prejudice or delay the performance or completion of the Project, or of any situation or event that may hinder or prevent that Party from providing its Contributions or any of them. The provision of information under this Clause shall not release or excuse that Party from any of its obligations under this Agreement, except and only insofar as **Clause 20** (Force Majeure) may apply.
- 3.5 No Party shall do anything that may damage or prejudice the reputation of another Party or their business or other interests.
- 3.6 The Lead Party agrees to carry out the Project Activity during the Project Period and shall:
- (a) procure the services of its Staff in carrying out the Project
 - (b) provide the Deliverables at the times stated in the Specification or as subsequently varied in writing by the Parties;
 - (c) provide its share of the Results;
 - (d) provide its share of the Contributions; and
 - (e) comply with its obligations hereunder.
- 3.7 The Lead Party agrees to use best endeavours in carrying out the Project Activity and its obligations under this Agreement.
- 3.8 The Lead Party shall only employ in the execution and superintendence of the Project and this Agreement, persons who are suitable, and appropriately skilled and experienced in the type of work which they are to perform, and with proper guidance and supervision as required to ensure the work is carried out with due care, skill and diligence.
- 3.9 The Lead Party shall procure that its Staff and each of them:

- (a) is sufficiently qualified, trained, skilled and experienced in the type of work which they are to perform;
 - (b) exercises all due skill, care, attention and diligence in their work;
 - (c) carries out the Project Activity in accordance with the agreed timescales in the Specification or otherwise or, where none have been agreed, within a reasonable time;
 - (d) carries out all reasonable lawful instructions, suggestions or directions given by the other Parties Representatives;
 - (e) keeps proper records of his work to evidence the creation of Foreground Rights and Results and what Background Rights, if any, were used in their creation ; and
 - (f) promptly discloses to the other Parties all Results and Foreground Rights he has created;
 - (g) liaises closely with the other Parties in every aspect of his work;
 - (h) promptly informs the other Parties via their Representatives of any difficulties, problems or opportunities that arise in his work; and
 - (i) provides all reports at the times and in the manner specified in this Agreement or otherwise agreed between the Parties.
- 3.10 The Lead Party shall, and shall procure that its Staff shall, promptly disclose to the other Parties all Results (including Interim Results) and Foreground Rights, and in any event shall make such disclosure by the Completion date or earlier termination in accordance with this Agreement (however effected).
- 3.11 The Lead Party shall deliver to the Agency Project Manager a monthly progress report on its activities in the Project during the previous period, which shall include progress made and difficulties encountered with the Project, including any notified under Clause 3.4, any proposed changes to the manner in which the Project is run, time spent on the Project and details of the financial spend incurred and invoices issued or received during the previous period.
- 3.12 In the event that this Agreement requires Personal Data to be processed, or one or more of the Parties otherwise processes Personal Data pursuant to this Agreement, the provisions of Appendix 3 shall apply ('process' having the same meaning as in the Data Protection Legislation). In the event of a conflict between the terms in Appendix 3 and the other terms of this Agreement, and with respect to compliance with the Data Protection Legislation only, the terms of Appendix 3 shall take precedence.

4. LEAD PARTNER

4.1 **Keep Britain Tidy** will be the Lead Partner for the Project.

4.2 The Lead Partner shall:

- (a) manage the delivery of the Project as set out in the Specification;
- (b) provide adequate management and support staffing to administer the Project effectively;
- (c) appoint the Project Manager pursuant to Clause 5.1;
- (d) be responsible for financial management and administrative aspects of the Project;
- (e) ensure that all Key Personnel are available to work on the Project as set out in Clause 5.6;
- (f) establish and host a web forum as set out in the Specification; and
- (g) update and maintain the web forum for a period of 60 months after implementation as set out in the Specification.

5. **WORKING ARRANGEMENTS & KEY PERSONNEL**

5.1 Project Manager

The Lead Partner shall appoint the Project Manager who shall:

- (a) manage the day to day operation of the Project in accordance with this Agreement;
- (b) be the Lead Partner's Representative;
- (c) act as the first point of contact at the Lead Partner for all purposes in connection with the Project;
- (d) provide effective liaison between the Lead Partner and the Agency;
- (e) ensure that the Project is carried out and operated in a manner consistent with its objectives as described in the Specification;
- (f) report on Project progress to the Agency Project Manager every month and as otherwise necessary or required;
- (g) supervision of the implementation of current Health and Safety legislation in delivery of the Project; and
- (h) report on web resource maintenance updates to the Agency Project Manager every quarter during the maintenance period

The first Project Manager shall be the person identified as such in the Specification.

Parties Representatives

5.2 Each Party shall appoint a Representative who shall:

- (a) be responsible for management of the day to day operational delivery of the Project by that Party;
- (b) ensure that the Party they are representing carries out and manages the Project in a manner consistent with the Specification and otherwise in this Agreement;

- (c) provide effective liaison between that Party and the other Parties;
- (d) The first Representatives for the Parties shall be the persons named as such in the Specification.

5.3.1 The Parties shall promptly notify one another of any change in the identity of their Representatives.

5.3.2 Each Party may appoint such deputies for their Representative as they consider appropriate, such appointments to be notified to all other Parties. A deputy to a Representative shall act in substitution for that Representative in the event that the Representative is unavailable.

5.3.3 A Representative's deputy shall have the same powers and authority as the Representative and any act of the deputy will be deemed to be an act of the Representative.

Project Executive

5.4.1 The Project Executive will be accountable to the Project Sponsor for the delivery of the Project and shall have authority to make necessary amendments to the Specification or any aspect of the plan or timescales for delivery of the Project (including the Completion Date). The Project Executive shall first consult the Parties on such changes and take account of the Parties' responses in making any decision in respect of such changes.

5.4.2 Not used.

5.4.3 Not used.

5.4.4 Not used.

5.4.5 Not used.

5.4.6 Not used.

5.4.7 Not used.

5.4.8 Not used.

5.4.9 Not used.

5.4.10 Not used.

Key Personnel

5.5 The Parties agree that there will be a need to retain certain persons crucial to the successful delivery of the Project. The Parties have identified such persons ("Key Personnel") from within the Staff of the Lead Partner, and the Parties have agreed a written list of Key Personnel as listed in the Specification.

5.6.1 The Lead Partner shall (subject to the remaining provisions of this Clause 5.6) make Key Personnel available for the whole Project Period, for the purposes of carrying out the Project. Where Key Personnel are associated with the provision of specific skills or services as identified in the Specification, such skills or services shall only be provided by the named Key Personnel.

5.6.2 If any of the Key Personnel ceases to be a member of Staff or becomes unable to work in or for the Project for any period longer than sixty (60) calendar days, the Lead Partner will notify the other Parties of the position and will confirm any oral notification in writing, and will indicate as quickly as possible either the expected date upon which any absentee is likely to return or whether the absence is likely to be permanent.

5.6.3 If any of the Key Personnel:

- a) leaves or decides to leave the Lead Partner
- b) is dismissed or suspended from the Lead Partner for any other reason is unable to work; or

if there are any circumstances which make it difficult or impossible for the Lead Partner or any of its Staff to provide the services or any of them, then the Lead Partner shall use its reasonable endeavours to identify and appoint an individual, subject to the approval of the other Parties, who has no lesser experience and expertise in the relevant field as a replacement. If any such person requires replacement at any time and the Lead Partner fails to appoint a replacement or fails to do so within a period of ninety (90) calendar days each other Party shall be entitled to terminate this Agreement or the involvement of the defaulting Party.

5.6.4 No changes of any kind shall be made to the list of Key Personnel without the written agreement of the other Parties Representatives, whose agreement shall not be unreasonably withheld. The Lead Partner shall provide the Parties with such information as may reasonably be required in support of any proposed change to the list of Key Personnel.

6. PAYMENT & FINANCIAL CONTRIBUTIONS

6.1 In consideration of the Contributions made by the other Parties and their performance of this Agreement, each Party agrees to make its Financial Contributions as set out in [Appendix 2](#).

6.2 The Financial Contributions are exclusive of all VAT and all other taxes and duties, and each Party shall bear the cost of all VAT from time to time levied upon its Financial Contributions.

6.3 The Lead Partner shall be responsible for holding the Financial Contributions contributed by the Parties and for the financial management of the Project. It shall put in place appropriate

financial management and auditing procedures for the Project, in order to control expenditure and ensure that costs are properly incurred and can be clearly identified.

- 6.4.1 Payment shall be made in arrears and only on completion of satisfactory progress in the project and compliance with milestones and / or Deliverables as set out in the Specification.

The Lead Partner shall invoice the other Parties for their share (as set out in Appendix 2) of any expenditure incurred in arrears on a monthly basis, such sums to be shared. The Lead Partner shall forward copies of all invoices of subcontractors, employees or consultants employed, Interim payment certificates and evidence of all other payments under the Project to the Environment Project Manager at the end of each calendar month during the lifetime of the Project.

- 6.4.2 Financial Contributions and other resources allocated to the Project by the Parties shall only be expended or committed in accordance with this Agreement unless otherwise agreed in writing by the Parties. In the event of Financial Contributions being expended in breach of this Clause 6.4 the Party expending those funds shall be liable to repay each other Party an amount equal to such proportion of the misapplied funds in proportion to the Parties' share of the Financial Contributions due up to that date.

- 6.5 A Party shall have the right to withhold further Financial Contribution payments should the circumstances set out in Clause 6.4.2 arise regardless of whether or not that Party serves a notice for repayment of monies under that Clause.

- 6.6 If a Party fails to make any of its Financial Contributions by the due date for payment of them after receiving a correct demand therefor, the invoicing Party may charge interest on any amount outstanding, at a rate equal to the Bank of England Base Rate from time to time in force during the period when the amount remains outstanding.

- 6.7 Each Party shall ensure that it has in place appropriate financial management and auditing procedures and all shall ensure that it complies with all tax requirements faced by it in connection with this Agreement.

7. PUBLICATION & PUBLICITY

All external correspondence and publicity relating to the Project must be agreed in advance by the Agency Project Manager.

- 7.1 Each Party shall, in all documents submitted or published, include in a prominent position an acknowledgement of the other Parties' Contributions to the Project and any rights contained in the Results or Background Rights upon which the publication depends.

- 7.2 Nothing in this Agreement in any way limits a Party's rights to prepare independent reports on the Project for internal or statutory use, to meet its legal obligations or for internal communications applicable to the management of its Staff.

8. CONFIDENTIALITY

- 8.1 The Parties acknowledge that they are each bound by freedom of information legislation and that the Agency is subject to statutory obligations for disclosure and publication of certain information, and as such are unable to give any undertaking not to release information about the Project or this Agreement that conflicts with such laws.

- 8.2 Subject to Clause 8.1, Confidential information shall include all data and information whether or not owned or held by a Party that:

- (a) is identified by a Party as being confidential;
- (b) ought reasonably to be regarded as confidential (however it is conveyed or on whatever media it is stored).

- 8.3 Confidential Information includes, but is not limited to:

- (a) information relating to the contracting and commercial or business activities, personnel, customers and suppliers of a Party or any third Party;
- (b) methods of information, techniques, know-how acquisition, software design, financial information and statistical methods;
- (c) all Intellectual Property Rights, know-how, and information relating to the ownership, protection and exploitation of any Intellectual Property Rights developed in connection with the Project or this Agreement; and
- (d) all Personal Data.

- 8.4 Information shall not be or shall cease to be Confidential Information where or at the point when it is:

- (a) generally available to the public other than as a result of disclosure by a Party in breach of this Agreement;
- (b) already known to the receiving Party free of obligations of confidentiality (as evidenced by written records) at the time of its disclosure;
- (c) provided to the receiving Party by a third party having a right to disclose the information free of any restriction as to the use or disclosure, whether under this Agreement or otherwise;
- (e) independently developed by the receiving Party (as evidenced by written records) other than pursuant to this Agreement;

- (f) required by operation of law or governance obligations to be disclosed (which shall include but is not limited to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004) or the order of any authority competent to make such an order provided that where practicable and where required for compliance with the relevant law, statute, regulation or order the Party intending to disclose the information gives to the Party who originally provided the information reasonable advance notice of the intended disclosure and a reasonable opportunity to make representations regarding such disclosure; or
- (g) subject to an express written waiver by the disclosing Party and the disclosing Party has the necessary authority to give such a waiver.

8.5 Each Party shall not, and shall procure that its Staff shall not:

- (a) use or disclose the Confidential Information except for the purposes of this Agreement;
- (b) use or disclose the Confidential Information so as to procure any commercial advantage over the disclosing Party;
- (c) disclose the Confidential Information to its Staff except to the extent necessary to perform that Party's obligations in connection with this Agreement and provided that its Staff to whom Confidential Information is disclosed are subject to substantially the same obligations of confidentiality as are contained in this Agreement; and
- (d) otherwise use or disclose to any third party any Confidential Information unless such use or disclosure is permitted by the disclosing Party.

8.6 The receiving Party shall inform the disclosing Party immediately if it comes to its notice that any Confidential Information has been or potentially may be improperly disclosed or misused.

8.7 Without affecting any other rights or remedies that the disclosing Party may have, the receiving Party acknowledges and agrees that damages alone would not be an adequate remedy for any breach of its obligations of confidentiality in connection with this Agreement and the disclosing Party shall be entitled to seek the remedies of injunction, specific performance and/or other equitable relief for any actual or threatened breach of this Agreement whether by the receiving Party or its Staff.

8.8 The obligations of confidentiality shall survive for 6 (six) years from the Completion Date, except where the Confidential Information is IPR in which case the obligations shall survive indefinitely.

9. INTELLECTUAL PROPERTY RIGHTS

9.1 Logos and trade marks

No Party shall itself or by a third party use or reproduce or otherwise deal with the logos distinctive marks or trademarks of another Party or cause or permit the same without the consent in writing of the Party to whom the logos, distinctive marks or trademarks belong.

9.2 Background Rights

9.2.1 Background Rights shall remain the property of the Party introducing them to the Project and each party agrees not to use another's Background Rights in any way that is inconsistent with the operation of this Agreement. Details of the Parties' respective Background Rights are set out in Appendix 4 and in addition shall include any IPR that a Party may introduce to the Project from time to time for which it provides notification to the Parties upon the introduction of such Background Rights to the Project. The Parties agree to complete regular returns in respect of Background Rights in the format of Appendix 4, which shall be submitted to the other Parties at least quarterly. The Parties shall review the returns (Appendix 4) on a monthly basis up to and including completion of Objective 1 (i) and (ii) and Objective 2(i). Thereafter, the Parties shall review the returns (Appendix 4) on a quarterly basis, prior to web resource updates being implemented.

9.2.2 Each Party hereby grants to the other Parties a royalty-free and charge-free (except where it is not able to do so and makes such declaration in accordance with [Clause 9.2.4](#)), world-wide, non-exclusive, non-transferable irrevocable licence for non-commercial purposes to use its Background Rights:

- (a) during the Project Period solely for the purpose of fulfilling its obligations arising from this Agreement whether by itself or by its Staff (which for the avoidance of doubt may include its contractors) in accordance with this Agreement, but otherwise without a right to sub-licence; and
- (b) in order for the licensed Party to use any Foreground Rights insofar as is necessary for the purposes expressly permitted in this Agreement (or other purposes agreed in writing by the Parties).

Such licence shall be terminable only in cases of material breach of the provisions of the licence.

9.2.2A Each Party hereby grants to the Union, a royalty-free and charge-free (except where it is not able to do so and makes such declaration in accordance with Clause 9.2.4), world-wide non-exclusive, non-transferable irrevocable licence for non-commercial purposes and for the duration of the Project Period, to use its Background Rights where :

- (a) such use by the Union is necessary to allow the Union to use the Results and

- (b) background intellectual property belonging to of any Parties is included in such Results

9.2.2B If the Union requires the use of Background Rights of any Party beyond the Project Period, in order to exercise its rights in the Results then such Party will not unreasonably refuse to grant or delay granting a licence to the Union so that the Union may use such Background Rights for the purpose of exercising its rights in the Results.

9.2.3 The licence set out in Clause 9.2.2 shall not permit the licensed Party to:

- (a) use the licensed Background Rights for any commercial purposes;
- (b) sub-licence the Background Rights other than to the extent set out in Clause 9.2.2; or
- (c) further develop the Background Rights other than to the extent necessary for the purposes of Clause 9.2.2(a) (unless otherwise agreed in writing by the Parties).

9.2.4 Without prejudice to the generality of Clause 9.2.2, a Party may charge a reasonable royalty or to impose restrictions for use of such Background Rights only where that Party is itself subject to such obligations to a third party and only where the Parties have agreed in writing in advance of provision of those Background Rights a fair, reasonable and non-discriminatory fee for the use of them.

9.2.5 At the end of the Project Period each Party shall return all property in which Background Rights subsist to the Party introducing them to the Project. No such property or copies of it shall be retained other than where ongoing possession is required in order to use the Foreground Rights as permitted in this Agreement.

9.2.6 No Party shall provide or licence Background Rights or other IPR to another Party under this Agreement in the knowledge, information or belief that the use of the Background Rights by that Party will infringe the Intellectual Property Rights of any third party, and each Party;

- (a) warrants to the other Party and will warrant at the time of each such provision or licensing that none of the IPR, the Background Rights and Foreground Rights provided or licensed by that Party under this Agreement will be in breach of any third party's IPR; and
- (b) warrants to the other Party that it has obtained, or shall at the time of such licensing or provision have obtained, all such licences, consents or permissions as it may require in order lawfully to provide or licence the IPR, or the documents, property or other matters in which IPR subsist (from time to time), provided or licensed by it under this Agreement;
- (c) shall indemnify the other Party against any loss, liability or costs arising from third party claims in respect of any breach of this clause 9.2.6 whether actual or alleged.

9.3 Foreground Rights

- 9.3.1 The Agency shall own the Results and Foreground Rights and may take such steps as it may decide from time to time, and at its own expense, to register and maintain any protection for the Foreground Rights, including filing and prosecuting patent applications for any of the Results.
- 9.3.2 Each Party shall procure from its Staff (including any students) all Results and Foreground Rights and shall take such steps as are necessary in order to give effect to Clause 9.3.1.
- 9.3.3 The Agency hereby grants to the other Parties a royalty-free and charge-free, world-wide, non-exclusive, non-transferable irrevocable licence, without the right to sub-licence, in respect of all Foreground Rights necessary :
- (a) in order for each other Party to use the Results to fulfil its obligations arising from this Agreement in connection with the Project during the Project Period; and
 - (b) in order for the licensed Party to use the Foreground Rights for its own internal business, research, teaching and/or statutory or regulatory purposes.
- 9.3.4 In each case set out in Clause 9.3.3 the licence shall permit use only insofar as is necessary for the use of such Foreground Rights for those purposes and without limiting the generality of the foregoing those purposes:
- (a) shall not include any commercial use or purpose;
 - (b) shall not permit further development of the Foreground Rights (unless otherwise agreed in writing by the Parties); and
 - (c) may involve a third party contractor carrying out work on its behalf, provided always that any licence of the Foreground Rights granted to third parties for those purposes shall be on terms that prohibit sub-licensing, transfer, assignment and commercial use or exploitation and other appropriate terms. The rights in this sub-clause are subject to the rules on publication in Clause 7.
- 9.3.5 Except in the case of sub-licence to a contractor carrying out work for a Party in accordance with Clause 9.3.3, the licensed Parties shall not sub-licence any Foreground Rights or allow any third party to use such rights without the prior written consent(s) of the Agency, which if granted shall be subject to fair, reasonable and non-discriminatory terms.
- 9.3.6 Any use or sub-licensing of the Foreground Rights of another Party for commercial purposes shall be subject to the separate agreement of the Parties which if agreed shall be on fair, reasonable and non-discriminatory terms and subject to reasonable revenue sharing arrangements.

- 9.3 If a Party is prevented from carrying out its obligations under this Agreement due to any infringement or alleged infringement of any Intellectual Property Rights, that Party may without prejudice to any other rights and remedies exercise the powers and remedies available to it under Clauses 12 and 13 (Default and Termination).
- 9.4 No licence to use any Intellectual Property Rights is granted or implied by this Agreement except the rights expressly granted in this Agreement. Nothing in this Clause 9 is to be taken as a consent, authorisation or instruction for the purposes of clause 3.12 or Appendix 3 (Data Protection).
- 9.5 The Parties each agree not to use, exploit or deal with the Foreground Rights or the Results or any of them in any way that is;
- (a) inconsistent with the operation of this Agreement;
 - (b) might damage or prejudice the reputation of another Party; or
 - (c) might damage or prejudice another Party's commercial or other business interests.
- 9.6 Each Party shall maintain adequate security measures to protect the integrity and security of Intellectual Property Rights and Confidential Information held by it and/or its Staff under the terms of this Agreement. Each Party shall promptly notify the others of any breach or suspected breach of such security measures and take remedial action.
- 9.7 No Party guarantees the total accuracy of any Background Rights, data, information or materials or know how supplied or that they are free from errors, defects, viruses, Trojan horses, worms, logic bombs or any other destructive code of any kind or other material which is malicious or technically harmful.

10. LIABILITY

- 10.1.1 Subject always to the provisions of Clause 10.3, each Party shall indemnify each other Party, and its Staff against:
- (a) all claims, demands, actions, costs, expenses, losses and damage made or notified to the indemnified Party and arising from or incurred by reason of the indemnifying Party or its Staff in carrying out work under this Agreement or any infringement of IPR in connection therewith; and
 - (b) the acts, errors or omissions of its Staff that are a result of or due to the negligence of the indemnifying Party.
- 10.1.2 Each Party shall be liable for, and shall promptly discharge, payment of all salaries, expenses, costs, disbursements, income or other taxes, pensions, national insurance

contributions and dues of any kind arising out of the employment or other engagement of the Staff and any other person carrying out work on behalf of a Party under this Agreement and subject always to the terms of Clause 10.3 each Party shall indemnify each other Party against all claims made and arising out of the payment, or non-payment, of any such items by the indemnifying Party.

10.1.3 Subject always to the terms of Clause 10.3, each Party shall indemnify each other Party against all claims, demands, actions, costs, expenses, losses and damage arising from or incurred by reason of any breach by it of Clause 3.12 or any provision of Appendix 3 (Data Protection) or any infringement by it or its Staff of the Data Protection Legislation in connection with its performance under this Agreement.

10.1.4 The Lead Partner shall be responsible for and shall indemnify and hold harmless the Agency against third party costs claims damages and liabilities which may arise out or as a result of any works carried out as part of the Project for the lifetime of the Project and beyond.

10.2 No Party seeks to exclude or limit its liability for death or personal injury caused by its negligence, or fraudulent misrepresentation made by it or on its behalf, or such other matters where exclusion of liability is constrained or prohibited by operation of law.

10.3 Except as otherwise expressed in this Agreement, no Party shall be liable to another for:

- (a) loss of actual or anticipated profits or any economic loss, loss of revenue or loss of contract, whether direct or indirect; or
- (b) indirect, special or consequential loss or damage arising out of or in connection with this Agreement, whether for breach of contract, negligence or otherwise.

11. PROPERTY, INSURANCE & RECORDS

11.1.1 The Parties shall each insure and maintain such insurances with a reputable insurer based in the UK as are necessary to cover its liability in respect of personal injury or death arising out of, or in the course of, its work under this Agreement.

11.1.2 Each Party shall insure with a reputable insurer based in the UK against any expense, liability, loss, claim or proceedings whatsoever in respect of any damage to any real or personal property to an amount of £1 million (one million pounds) for any one occurrence or series of occurrences arising out of any one event and due in whole or in part to the acts, errors or omissions of any person for whom that Party is responsible.

- 11.1.3 Each Party shall insure against professional indemnity liabilities with a reputable insurer which is based in the UK to an amount of £1 million (one million pounds) for any one occurrence or series of occurrences arising out of any one event and due in whole or in part to the acts, error or omissions of any person for whom that Party is responsible.
- 11.2 The Parties shall maintain such insurances for a period of 7 (seven) years after the end of the Project Period.
- 11.3 The requirements of Clause 11.1 may be waived for a Party where that Party can establish that it has in place self-insurance or other arrangements to provide cover for its liabilities and the nature of such arrangements are reasonably acceptable to the other Parties.
- 11.4 Each Party shall maintain all records and associated documentation required for the proper implementation and operation of the Project and used in connection with the Project and this Agreement for a period of 7 (seven) years following the Completion Date. This shall include full and accurate accounts and records together with supporting documentation of:
- (a) all expenses and expenditure incurred by it in connection with the Project and this Agreement;
 - (b) all Contributions actually made by it; and
 - (c) all Results and Foreground Rights produced by it.
- 11.5 Each Party shall on request provide the other Parties (including their auditors, agents and advisers) with such access to those records as may reasonably be required.
- 11.6 All Property provided by a Party to another Party shall remain the property of the providing Party and shall only be used for the purposes for which it was provided in carrying out the Project. The receiving Party shall keep all such Property in safe custody and good condition, shall ensure it is separately identified or identifiable and save where the Party providing the Property expressly agrees to the contrary shall ensure that the Property is fully returned to the providing Party.

12. DEFAULT

- 12.1 A Party shall be in default if it:
- (a) fails to perform its obligations hereunder with reasonable skill, care, diligence and timeliness; or
 - (b) is otherwise in breach of any provision of this Agreement.
- 12.2 It shall be a material breach of contract if a Party:
- (a) fails to fully perform and comply with its obligations under this Agreement; or

- (b) fails to use reasonable skill, care, diligence and timeliness in performing and complying with its obligations under this Agreement;
 - (c) fails to provide any Contributions or Deliverable at the times specified or agreed for delivery;
 - (d) misuses another Party's Contributions;
 - (e) breaches any third party's Intellectual Property Rights;
 - (f) deals with any Party's Intellectual Property Rights in a manner that is inconsistent with the provisions in this Agreement;
 - (g) is prevented from carrying out its obligations under this Agreement due to any infringement or alleged infringement by it of any Intellectual Property Rights;
 - (h) materially breaches any of the requirements of Clause 3.12 or Appendix 3 (Data Protection), **Clause 16.1** (statutory obligations) or Clause 18.3 (Construction (Design and Management) Regulations 2015);
 - (i) knowingly or persistently breaches Clause **5.5 to 5.8** (Key Personnel) or fails to replace any Key Personnel as required by Clause **5.6**; or
 - (j) commits a series of defaults under **Clause 12.1** of this Agreement which when taken together constitute a material breach.
- 12.3 The short temporary non-availability of Staff for reasons outside a Party's reasonable control or the occurrence of a Force Majeure Event shall not constitute events that give rise to a material breach of contract.
- 12.4 Where, in the reasonable opinion of a Party, another Party is in material breach of contract, the non-defaulting Party shall be entitled to serve a written notice upon the defaulting Party notifying that defaulting Party:
- (a) of the material breach of contract;
 - (b) whether the breach is capable of remedy or not and, if capable of remedy, requiring the defaulting Party to remedy the default; and
 - (c) provided that the breach is not due to the fault of the Party serving the notice, that the non-defaulting Party may terminate the Agreement if the defaulting Party does not take reasonable steps to remedy the specified breach within such reasonable period as the non-breaching Party may specify provided that the period is not less than 30 (thirty) calendar days.
- 12.5 If in the opinion of the Agency the Lead Party does not complete its obligations under this Agreement on time or with the specified degree of care and skill then the Agency shall be entitled to:
- (a) require the Lead Party to rectify the situation at its own cost; or
 - (b) arrange completion of the work at its own expense, such costs to be reimbursed by the defaulting Party.

13. TERMINATION

13.1 The Parties may terminate this Agreement by mutual consent at any time during the Project Period on such terms as the Parties may agree.

13.2 The Agency shall have a right to terminate its participation in this Agreement with immediate effect or if it so elects upon notice in the event that it considers in its sole discretion that to continue all or part of this Agreement does or will conflict with the Agency's functions, powers, duties aims or objective or is otherwise inconsistent with its obligations as a public body.

13.3 A Party shall be entitled to terminate this Agreement (or the participation of another Party in this Agreement) with immediate effect, without prejudice to any other rights and remedies under this Agreement, where another Party:

- (a) has served upon it a notice pursuant to **Clause 12.4** specifying an irremediable breach, except where the breach is due to the default of the Party serving the notice;
- (b) has served upon it a notice pursuant to **Clause 12.4** specifying a remediable breach and the defaulting Party has failed to remedy that breach or failed to take steps to remedy that breach which are reasonably satisfactory to the terminating Party within the time stated in the notice, except where the breach is due to the default of the Party serving the notice;
- (c) assigns or transfers any part of its benefits under this Agreement to a third party, save for the purposes of reorganisation or transfer to a successor body, without the prior written consent of all Parties; or
- (d) goes into liquidation whether compulsory or voluntary (except for the purposes of a solvent reconstruction or amalgamation undertaken with the consent of the other Parties such consent not to be unreasonably withheld); or
- (e) has an administrator, administrative receiver or receiver appointed over any part of its assets or undertaking;
- (f) has an order being made or a resolution passed for the winding up of that Party except where such an event is for the purpose of restructuring and the resulting institution agrees to be bound by the terms and conditions of this Agreement.

13.4 Where there are more than two Parties to the Agreement and the participation of a Party has been terminated for whatever reason, the non-defaulting or non-departing Parties may:

- (a) agree to terminate the Agreement entirely; or
- (b) agree that the Project may continue, and amend this Agreement as they agree appropriate; and

- (c) where and to the extent that the terms of this Clause 13.4 apply, this Agreement shall be deemed to survive the termination of the departing or defaulting Party's participation and all references in this Agreement to its termination shall in such circumstances be construed as reference to termination of the departing or defaulting Party's participation in the Agreement.
- 13.5 Upon termination of this Agreement (or upon termination of a Party's participation in it) then the Parties (or the departing Party in the latter case) shall:
- (a) pay over to the Lead Partner such portions of their respective Financial Contributions that is unpaid at the date of termination (whether or not the date for final payment has been reached) as may be necessary to cover their proportion of the reasonable costs and commitments reasonably and necessarily incurred in connection with the Project and not paid at that date;
 - (b) immediately return to each other Party all of its Property including all equipment, Background Rights, documentation and information (in the case of Personal Data, in accordance with Appendix 3);
 - (c) account to the other Parties in respect of any of the other Parties' Financial Contributions it holds provided that such Financial Contributions are not required to discharge reasonable costs and commitments necessarily incurred in connection with the Project but not paid at that date;
 - (d) repay any amount it is due to pay pursuant to Clause 6.4; and
 - (d) hand over to the other Parties copies of all Results held by it, including Interim Results.
- 13.6 Without prejudice to the generality of Clause 9 (Intellectual Property), each Party (excepting a Party in material breach of the Agreement) shall retain all rights granted to it under this Agreement to use Foreground Rights for the purposes permitted in Clause 9.
- 13.7 Termination of this Agreement (or the participation in it of a Party) shall not prejudice any rights of any Party which have arisen on or before the date of termination.
- 13.8 Without prejudice to the generality of this Agreement, where the terms of Clause 20 apply, the occurrence of a Force Majeure Event, whilst not a material breach of contract, may give rise to termination of this Agreement or a Party's participation in it where the circumstances envisaged by Clauses 20.3 or 20.4 apply.
- 13.9 Without prejudice to the generality of Clause 13.5 any outstanding reasonable costs and commitments reasonably and necessarily incurred in connection with the Project and not paid

at the date of termination will be allocated between the Parties in proportion to their Contributions to the Project,

14. DISPUTE RESOLUTION

14.1 During the Project Period the Parties shall attempt to resolve all disputes and differences between themselves and if they are unable to do so such matters, it shall first be referred to the Agency Project Executive.

14.2 If the Agency Project Executive is unable to resolve the dispute or difference to the satisfaction of the Parties in dispute within two weeks, the Parties in dispute shall attempt to resolve the issue by negotiation between their Representatives or such other persons as those Parties may reasonably designate for resolving disputes. If the dispute or difference is not so resolved within a reasonable period, the Representatives shall refer the matter to their respective senior managers for resolution.

14.3 If any dispute arises after the Project Period, the Parties in dispute shall attempt to resolve it via their Representatives or such other persons as those Parties may reasonably designate for resolving disputes in such circumstances. If the Representatives or other persons are unable to resolve the dispute within a reasonable period, the matter shall be referred to their respective senior managers for resolution.

14.4 If the matter referred to the Parties' senior managers pursuant to Clause 14.2 or 14.3 cannot be resolved, the Parties in dispute shall consider referring the matter to mediation in accordance with Clause 14.5. If those Parties acting in good faith do not consider that mediation is an appropriate method of dispute resolution they shall consider such other methods of alternative dispute resolution as they reasonably consider to be appropriate in the circumstances and shall seek to resolve the matter using such methods as they may agree.

14.5 In the event that the Parties in dispute decide that mediation is appropriate, they will use the following procedure:

- (a) The Mediator shall be chosen by agreement between the Parties, provided that any Party may within 14 (fourteen) calendar days from the date of the proposal to appoint a mediator, or within 14(fourteen) calendar days of notice to any Party that the chosen mediator is unable or unwilling to act, apply to CEDR to appoint a mediator;
- (b) The Parties to the dispute shall within 14 (fourteen) calendar days of the appointment of the Mediator agree a timetable for the mediation. If appropriate, the relevant Parties may at any stage seek guidance from CEDR on a suitable procedure;

- (c) Unless otherwise agreed, all negotiations and proceedings in the mediation connected with the dispute shall be conducted in strict confidence and shall be without prejudice to the rights of the Parties in any future proceedings;
- (d) Where the Parties agree that mediation is appropriate, the dispute resolution procedure in this Clause 14 shall be binding on the Parties but the Parties shall not be bound by the outcome of the mediation unless and until the Parties agree to be so bound and set out the agreed resolution in a written agreement;
- (e) Failing agreement, any Party to the dispute may invite the Mediator to provide a non-binding but informative opinion in writing. Such opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the dispute without the prior written consent of the relevant Parties. The Party requesting the opinion shall bear the costs incurred in obtaining that opinion unless the Parties agree otherwise;
- (f) For a period of 60 (sixty) calendar days from the date of the appointment of the Mediator, or such other period as the Parties to the dispute may agree, none of those Parties may commence any proceedings in relation to the matters referred to the Mediator save that those Parties shall be free to apply to the courts for interlocutory relief at any time.
- 14.6 For the avoidance of doubt, recourse to the means of alternative dispute resolution provided for in this Clause 14 shall not preclude the exercise of the rights under Clauses 12 (Default) and 13 (Termination) including the service of notices and termination provisions.
- 15. NOTICES**
- 15.1 All notices given under this Agreement shall be in writing and will be sent to the address of the Party being served as set out in the Specification or any other address a Party may from time to time designate by notice given in accordance with this Clause 15.
- 15.2 Notices may be delivered personally, by first class pre-paid letter or fax transmission.
- 15.3 Any notice served in accordance with Clauses 15.1 and 15.2 above will be deemed to have been served:
- (a) at the time of delivery when served in person;
 - (b) 2 (two) working days from the date of posting when served by first class post; or
 - (c) immediately on transmission when served by fax, provided that a confirmatory copy is sent by first class pre-paid post or by hand by the end of the next working day after transmission.
- 15.4 In proving service it shall be sufficient to show that:
- (a) when delivery is in person the notice was delivered to the appropriate address;

- (b) when service is by post the notice was submitted to an appropriate carrier for delivery, was properly addressed and all postage was fully paid; or
- (c) where service is by fax transmission, an automatic delivery report produced at the time of transmission demonstrating that the telephone number of the facsimile machine to which the message was sent was the number designated for service.

16. STATUTORY OBLIGATIONS & PERMISSIONS

- 16.1 The Parties shall each at their own expense comply, and procure that their Staff comply, with all laws and regulations applicable to the Project and their involvement in it including all health and safety legislation, Data Protection Legislation, the Race Relations Amendment Act 2000, Prevention of Corruption Acts 1889-1916, and the Freedom of Information Act 2000.
- 16.2 Each Party shall be responsible for securing and maintaining such permissions, licences, consents or approvals as it needs in connection with the Project.

17. ENVIRONMENT & SUSTAINABILITY

- 17.1 The Parties shall ensure that sustainable development, which includes environmental, social and economic factors, is taken into account during all stages of the Project and this Agreement and in any relevant contracts entered into with third parties.
- 17.2 Unless there is a specific requirement otherwise the Parties require that all reports in connection with this Agreement will be made in electronic format. Where paper copies of reports or other hard copy communications are required and where there are written announcements or publications required they will be printed on minimum 80% post-consumer waste recycled paper and where possible will be printed double-sided.

18. HEALTH & SAFETY

- 18.1 Where Staff of one Party are working on the premises or under the direction of another Party, that Party shall make those Staff aware of its health and safety and security requirements and those Staff shall comply with all instructions and requirements of that other Party relating thereto. While working remotely, the Staff of any Party shall be subject to that Party's health and safety policies on remote and home working.
- 18.2 Each Party reserves the right to refuse access to their premises to any person at any time or to require such person to leave its premises, without being required to give any reason for its decision and without incurring any liability for any loss that may be suffered as a result of that refusal. Such reasons may include where it has reasonable grounds to believe that person is a risk to the health and safety of others on those premises.

18.3 Not used

19. ASSIGNMENT & SUB-CONTRACTING

- 19.1 No Party shall be entitled to sub-contract, assign or otherwise transfer the whole or any part of its obligations under this Agreement (except in the case of assignment or transfer where for the purposes of solvent reorganisation or transfer to a successor body or by operation of law) without the prior written consent of all Parties. As the nature of the relationship between the Parties is to be a close collaborative relationship, it shall be reasonable in any case to refuse to consent to assignment or transfer.
- 19.2 No assignment, transfer or sub-contracting by a Party shall relieve it of any of its obligations or duties under this Agreement and that Party shall remain fully liable as though the matter assigned, transferred or sub-contracted matters were carried out by itself.
- 19.3 The terms of any sub-contract entered into by a Party in connection with this Agreement shall be consistent with and shall ensure compliance with this Agreement, including all auditing and financial requirements.
- 19.4 Any Party sub-contracting work under this Agreement shall ensure that it and any third party contractor to whom that work is sub-contracted has appropriate financial and auditing procedures in place to manage its commitments to the Project and that Party shall ensure that both it and its sub-contractor have complied with all relevant tax requirements relevant to the Agreement and their involvement with it.
- 19.5 The Lead Partner will be the contracting party in respect of any contracts entered into with third parties, including any persons employed for the purpose of delivering the Project (and who are not otherwise existing members of a Party's Staff, or where otherwise expressly agreed) and the Lead Partner shall be responsible for all concomitant liabilities to such persons in respect of, amongst other things, health and safety, training, pay and conditions, pension and redundancy, except where such liabilities arise due to the cause of another Party. For the avoidance of doubt nothing in this Clause shall serve to alter a Party's liability in respect of its Staff.

20. FORCE MAJEURE

- 20.1 If the performance by any Party of any of its obligations under this Agreement is prevented or delayed by a Force Majeure Event then that Party shall be excused from performance of that obligation for the duration of the Force Majeure Event.

20.2 If a Party becomes aware of a Force Majeure Event that is or is likely to give rise to a failure or delay on its part, then that Party shall notify the Agency Project Manager as soon as reasonably practicable giving a description of the Force Majeure Event and, where possible, an estimate of its likely duration.

20.3 If the Force Majeure Event in question continues or is likely to continue for a continuous period in excess of 30 (thirty) calendar days the Parties shall enter into discussions with regard to alternative arrangements in respect of this Agreement which may include but are not limited to termination of it pursuant to Clause 13.

20.4 Where a Force Majeure Event has extended or is reasonably anticipated to extend for a period of more than 60 (sixty) calendar days or for periods in aggregate of more than 60 (sixty) calendar days in any 12 (twelve) month period then this Agreement or the continued participation in it of the Party subject to the Force Majeure Event may be terminated by any other Party with immediate effect.

21. THIRD PARTIES

21.1 Save where this Agreement expressly provides to the contrary, for the purposes of the Contracts (Rights of Third Parties) Act 1999 this Agreement is not intended to and does not give any person who is not a party to it any right to enforce any of its provisions. This does not affect any right or remedy of any such party which exists or is available apart from that Act.

21.2 The Agency Project Manager must be made aware of any third parties involved in the Project.

22. CONFLICT

22.1 The Parties shall not (whether directly or indirectly) and shall not allow, permit or instruct their Staff to undertake work which would cause a conflict with the work that Party is undertaking under this Agreement where such conflict would have a direct and adverse impact on the Party's ability to comply with its obligations under this Agreement or would otherwise impede or interfere with the Party's proper performance of this Agreement.

22.2 A Party shall forthwith notify the Agency Project Manager of actual or potential conflict of interest of which it becomes aware.

23. VARIATIONS

23.1 No change or variation to this Agreement will be effective unless and until it is agreed in writing, signed by all Parties and annexed to this Agreement.

24. WAIVER

- 24.1 No failure or delay or grant of indulgence by a Party to exercise or enforce any right, power or remedy available to it, will operate or be construed as a waiver of such right, power or remedy under this Agreement or otherwise, nor will any partial exercise preclude any further exercise of the same or of some other right, power or remedy.

25. SEVERABILITY

- 25.1 If any court or other competent authority finds that any part or provision of this Agreement is void, unlawful or unenforceable then that part or provision will be deemed to have been severed from this Agreement and shall have no force and effect. The remaining provisions of this Agreement will continue to be valid and enforceable to the fullest extent permitted by law, and the Parties shall negotiate in good faith to agree the terms of a mutually acceptable and satisfactory alternative part or provision in that, as amended, it is valid and lawful and enforceable.

26. COUNTERPARTS

- 26.1 This Agreement may be executed in any number of counterparts or duplicates each of which shall be an original but such counterparts or duplicates shall together constitute one and the same agreement.

27. GOVERNING LAW & JURISDICTION

- 27.1 This Agreement shall be governed by and construed in accordance with the laws of England and Wales and subject to the agreed provisions in respect of alternative dispute resolution the Parties agree to submit to the exclusive jurisdiction of the courts of England and Wales regarding any claim or matter arising under this Agreement.

28. SURVIVAL

- 28.1 The provisions of Clauses 1 (Definitions), 6.4, (Payment & Financial Contributions), 7 (Publication & Publicity), 8 (Confidentiality), 9 (Intellectual Property Rights), 10 (Liability), 11 (Property, Insurance & Records), 13.5, 13.6, 13.7 and 13.9 (Termination), 14 (Dispute Resolution), 19 (Assignment & Contracting), 21 (Third Parties), 24 (Waiver), 25 (Severability), 26 (Counterparts), 27 (Governing Law & Jurisdiction), and 28 (Survival) shall survive termination of this Agreement.

AS WITNESS the hands of authorised signatories for the Parties hereby agree.

SIGNED for and on behalf of the
ENVIRONMENT AGENCY



Name: Carol Caddick

Position: Senior Commercial Officer
DgC | EGST

SIGNED for and on behalf of **Keep Britain Tidy**



Name: 














Position: Deputy Chief Executive

APPENDIX 1 – SPECIFICATION

[SEE SEPARATE TEMPLATE FOR SPECIFICATION and Project Proposal Form 27214_CL NC Macro Plastic_Appx2 KBT Project Proposal Form_v2.0 ZB EDITS]

APPENDIX 2 – FINANCIAL SCHEDULE

A: BUDGETARY PROFILE

Partner		2020/20 21	2021/20 22	2023/20 24	2024/20 25	2025/20 26	Contingen cy	Total
Environme nt Agency	Staff time	£ 						
	Cash							
	Other							
Contributin g Partner Keep Britain Tidy	In Kind contributi on			£ 				£ 
Total								£79,24 0

B: TIMETABLE

Deliverable/ Task	Due Date
Project Start Up meeting	December 2019
Initial web resource content collated and signed off	June 2020
Web forum design signed off	August 2020
Web forum testing complete	August 2020
Catchment report case study	October 2020
Infographic and map	November 2020
Campaign research completed	January 2021
Campaign plan agreed	February 2021
M&E framework agreed	February 2020

Campaign collateral signed off	March 2021
Campaign and Web forum launched	April 2021
Final report	October 2021
Project closedown meeting	December 2021
Web hosting terminates five years from 'Go Live' date	April 2026

C: PAYMENT SCHEDULE

Payments will be made in arrears upon satisfactory completion of the required tasks and approval by Environment Agency Project Manager:

Description	Partner	Amount £	Payment Date
Objective 1i: Baseline Research	Environment Agency	██████	30 Nov 20
Objective 1ii: Targeted Campaign	Environment Agency	██████	30 Apr 21
Objective 2i: Web Resource Design and Implementation	Environment Agency	██████	31 Aug 20
Objective 2.ii: Website Maintenance	Environment Agency	██████	30 Apr 21
Project Management/Administration Costs	Environment Agency		
Project Executive Open meeting	Environment Agency	██████	30 Apr 20
Project Executive Closing meeting	Environment Agency	██████	31 Dec 21
Project Manager – progress assessment and reporting, email and phone updates, meetings	Environment Agency	██████	31 Aug 20
	Environment Agency	██████	30 Nov 20
	Environment Agency	██████	30 Apr 21
CONTINGENCY (to be agreed between partners if required)	Environment Agency	██████	To be agreed if required
Total Value £		69,848	